

Senate Study Bill 1075 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED ECONOMIC
DEVELOPMENT AUTHORITY BILL)

A BILL FOR

1 An Act relating to the economic development financial
2 assistance duties and powers of the economic development
3 authority by authorizing and creating fees and a tax
4 rebate, affecting the aggregate tax credit limit for
5 certain economic development programs and the tax credit
6 for the endow Iowa tax credit, authorizing the diversion of
7 withholding tax payments for certain programs, making an
8 appropriation, and including effective date and retroactive
9 applicability provisions.
10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I
COLLECTION OF FEES

Section 1. Section 12.10, Code 2013, is amended to read as follows:

12.10 Deposits by state officers.

Except as otherwise provided, all elective and appointive state officers, boards, commissions, and departments shall, within ten days succeeding the collection, deposit with the treasurer of state, or to the credit of the treasurer of state in any depository designated by the treasurer of state, ninety percent of all fees, commissions, and moneys collected or received. The balance actually collected in cash, remaining in the hands of any officer, board, or department shall not exceed the sum of five thousand dollars and money collected shall not be held more than thirty days. This section does not apply to the state fair board, the state board of regents, the utilities board of the department of commerce, the director of the department of human services, the Iowa finance authority, the economic development authority, or to the funds received by the state racing and gaming commission under sections 99D.7 and 99D.14.

Sec. 2. Section 15.106B, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 5. a. The authority may charge fees to businesses or individuals who receive financial assistance under chapter 15 or 15E. The amount of such fees shall be determined based on the costs of the authority associated with its performance of contract administration and compliance duties relating to economic development programs.

b. The authority may charge businesses and individuals a fee for the use of the authority's federal EB-5 immigrant investor regional center.

Sec. 3. Section 15.330, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 12. a. The imposition of a one-time

1 compliance cost fee of five hundred dollars to be collected
2 by the authority prior to the issuance of a tax incentive
3 certificate or the disbursement of financial assistance.

4 *b.* The imposition of a compliance cost fee equal to one-half
5 of one percent of the value of tax incentives claimed pursuant
6 to an agreement that has an aggregate tax incentive value of
7 one hundred thousand dollars or greater. The authority shall
8 collect the fee from the business after the tax incentive is
9 claimed by the business from the department of revenue.

10 **Sec. 4. NEW SECTION. 15E.198 Compliance cost fees.**

11 The compliance cost fees imposed in 15.330, subsection 12,
12 shall apply to all agreements entered into under this division
13 and shall be collected by the authority in the same manner and
14 to the same extent as described in that subsection.

15 **Sec. 5. EFFECTIVE UPON ENACTMENT.** This division of this
16 Act, being deemed of immediate importance, takes effect upon
17 enactment.

18 **Sec. 6. APPLICABILITY.** This division of this Act applies to
19 agreements entered into on or after the effective date of this
20 division of this Act.

21 **DIVISION II**

22 **AGGREGATE TAX CREDIT LIMITATION**

23 **Sec. 7.** Section 15.119, subsection 1, Code 2013, is amended
24 to read as follows:

25 1. *a.* Notwithstanding any provision to the contrary in
26 any of the programs listed in subsection 2, the authority,
27 except as provided in paragraph "b", shall not authorize for
28 any one fiscal year an amount of tax credits for the programs
29 specified in subsection 2 that is in excess of one hundred
30 ~~twenty~~ eighty-five million dollars.

31 *b.* (1) The authority may authorize an amount of tax credits
32 during a fiscal year that is in excess of the amount specified
33 in paragraph "a", but the amount of such excess shall be counted
34 against the total amount of tax credits that may be authorized
35 for the next fiscal year.

1 (2) Any amount of tax credits authorized and awarded during
2 a fiscal year for a program specified in subsection 2 which are
3 irrevocably declined by the awarded business on or before June
4 30 of the next fiscal year may be reallocated, authorized, and
5 awarded during the fiscal year in which the declination occurs.
6 Tax credits authorized pursuant to this subparagraph shall not
7 be considered for purposes of subparagraph (1).

8 Sec. 8. Section 15.119, subsection 2, paragraphs d and e,
9 Code 2013, are amended to read as follows:

10 d. The tax credits for investments in qualifying businesses
11 and community-based seed capital funds issued pursuant to
12 section 15E.43. In allocating tax credits pursuant to this
13 subsection, the authority shall allocate two million dollars
14 for purposes of this paragraph, unless the authority determines
15 that the tax credits awarded will be less than that amount.

16 e. The tax credits for investments in an innovation fund
17 pursuant to section 15E.52. In allocating tax credits pursuant
18 to this subsection, the authority shall allocate eight million
19 dollars for purposes of this paragraph, unless the authority
20 determines that the tax credits awarded will be less than that
21 amount.

22 Sec. 9. EFFECTIVE UPON ENACTMENT. This division of this
23 Act, being deemed of immediate importance, takes effect upon
24 enactment.

25 Sec. 10. RETROACTIVE APPLICABILITY. This division of this
26 Act applies retroactively to July 1, 2012.

27 DIVISION III

28 ENDOW IOWA TAX CREDIT LIMIT

29 Sec. 11. Section 15E.305, subsection 2, Code 2013, is
30 amended to read as follows:

31 2. The aggregate amount of tax credits authorized pursuant
32 to this section shall not exceed a total of ~~three~~ five million
33 ~~five hundred thousand~~ dollars ~~plus such additional credit~~
34 ~~amount as provided by this section~~ annually.

35 a. The maximum amount of tax credits granted to a taxpayer

1 shall not exceed five percent of the aggregate amount of tax
2 credits authorized.

3 ~~a.~~ b. Ten percent of the aggregate amount of tax credits
4 authorized in a calendar year shall be reserved for those
5 endowment gifts in amounts of thirty thousand dollars or less.
6 If by September 1 of a calendar year the entire ten percent of
7 the reserved tax credits is not distributed, the remaining tax
8 credits shall be available to any other eligible applicants.

9 ~~b. For purposes of this subsection, the additional credit~~
10 ~~amount shall be an amount for each applicable calendar year~~
11 ~~determined by the department of revenue equal to the amount of~~
12 ~~money credited as provided by section 99F.11, subsection 3,~~
13 ~~paragraph "d", subparagraph (3), for the prior fiscal year.~~

14 Sec. 12. Section 99F.11, subsection 3, paragraph d,
15 subparagraph (3), Code 2013, is amended by striking the
16 subparagraph.

17 Sec. 13. EFFECTIVE UPON ENACTMENT. This division of this
18 Act, being deemed of immediate importance, takes effect upon
19 enactment.

20 Sec. 14. RETROACTIVE APPLICABILITY. This division of this
21 Act applies retroactively to January 1, 2013, for endow Iowa
22 tax credits authorized on or after that date.

23 DIVISION IV

24 WITHHOLDING TAX DIVERSION

25 Sec. 15. NEW SECTION. 15.331 Withholding tax payment
26 diversion.

27 1. If the authority enters into an agreement pursuant to
28 this part, or pursuant to chapter 15E, division XVIII, for
29 any of the incentives or assistance provided under this part,
30 the authority and the eligible business may agree to credit
31 a portion of the withholding payments required under section
32 422.16 to the authority as provided in this section.

33 2. a. An eligible business entering into a withholding
34 agreement with the authority pursuant to this section shall
35 remit the total amount of withholding payments due pursuant to

1 section 422.16 to the department of revenue.

2 *b.* The department of revenue shall quarterly deposit in a
3 fund created pursuant to section 15.106A an amount equal to two
4 and one-half percent of the gross wages paid by the eligible
5 business to each employee holding a created or retained job
6 covered by an agreement entered into pursuant to this part or
7 chapter 15E, division XVIII. Moneys to be deposited pursuant
8 to this paragraph shall not be paid to the authority until
9 the correct amounts have been verified by the department of
10 revenue.

11 3. Withholding payments shall be deposited pursuant to this
12 section by the department of revenue for each employee holding
13 a created or retained job for the duration of the agreement
14 between the eligible business and the authority.

15 4. The authority and the eligible business shall provide
16 to the department of revenue any information necessary to
17 correctly process the diversion of withholding tax payments
18 pursuant to this section.

19 5. An employee holding a created or retained job shall
20 receive full credit for the amount withheld as provided in
21 section 422.16.

22 6. If a portion of the employee's gross wages are subject
23 to a withholding credit diversion under chapter 260E, chapter
24 260G, or section 403.19A, or a supplemental withholding credit
25 diversion under section 15E.197, when a withholding credit
26 diversion under this section is agreed to, then the withholding
27 payments shall be credited in the following order of priority:

28 *a.* First, the withholding payments to be credited pursuant
29 to chapters 260E and 260G and section 15E.197.

30 *b.* Second, the withholding payments to be credited pursuant
31 to this section.

32 *c.* Third, the withholding payments to be credited pursuant
33 to section 403.19A.

34 7. If a withholding agreement is entered into pursuant to
35 this section before a withholding agreement is entered into

1 under chapter 260E or 260G, or section 15E.197 or 403.19A, the
2 withholding payments shall be credited in the order in which
3 the agreements are entered into.

4 8. The authority, in conjunction with the department of
5 revenue, shall adopt rules for the administration of this
6 section.

7 Sec. 16. EFFECTIVE UPON ENACTMENT. This division of this
8 Act, being deemed of immediate importance, takes effect upon
9 enactment.

10 Sec. 17. RETROACTIVE APPLICABILITY. This division of
11 this Act applies retroactively to July 1, 2012, for high
12 quality jobs program agreements and enterprise zone program
13 agreements entered into on or after that date, and for awards
14 of incentives or assistance made under those programs on or
15 after that date.

16 DIVISION V

17 CITY DEVELOPMENT BOARD FEES

18 Sec. 18. Section 368.10, Code 2013, is amended to read as
19 follows:

20 **368.10 Rules — establishment of filing fees.**

21 The board may establish rules for the performance of its
22 duties and the conduct of proceedings before it. The rules
23 may include establishing filing fees for applications and
24 petitions submitted to the board. The amounts collected
25 from the establishment of such fees are appropriated to the
26 board for the purpose of reimbursing the economic development
27 authority for the budgeted costs of covering the board's
28 expenses as described in section 368.9, subsection 1. Any
29 amounts collected in a fiscal year by the board in excess of
30 such budgeted costs shall be deposited in the general fund of
31 the state. The board's rules are subject to chapter 17A, as
32 applicable.

33 DIVISION VI

34 HIGH QUALITY JOBS REPLACEMENT TAX REBATE

35 Sec. 19. NEW SECTION. **15.332A Replacement tax rebate.**

1 1. Subject to the conditions in subsection 2, a community
2 may rebate all or a portion of the tax imposed and collected
3 pursuant to section 437A.5 on natural gas delivered or consumed
4 in completion of a project to the extent that the delivery or
5 consumption is directly related to new jobs created by the
6 start-up, location, or expansion of an eligible business under
7 the program.

8 2. A rebate provided pursuant to this section shall be for
9 a period equal to the length of the agreement executed pursuant
10 to this part or twenty years, whichever is less.

11 Sec. 20. EFFECTIVE UPON ENACTMENT. This division of this
12 Act, being deemed of immediate importance, takes effect upon
13 enactment.

14 Sec. 21. APPLICABILITY. This division of this Act applies
15 to high quality jobs program agreements entered into on or
16 after July 1, 2012.

17 EXPLANATION

18 This bill relates to the financial management of the
19 economic development authority (EDA) by authorizing and
20 creating fees and a tax rebate, affecting the aggregate tax
21 credit limit for certain economic development programs and
22 the tax credit for the endow Iowa tax credit, authorizing the
23 diversion of withholding tax payments for certain programs, and
24 by making an appropriation.

25 COLLECTION OF FEES. Division I amends Code section
26 15.106B, relating to the program powers of the EDA, to allow
27 for the imposition and collection of fees from businesses or
28 individuals who receive financial assistance from the EDA under
29 Code chapter 15 or 15E. The fee amounts are to be determined
30 based on the EDA's costs of administering contracts under its
31 various economic development programs. The division also
32 allows the EDA to charge a fee for the use of its federal EB-5
33 immigrant investor regional center. Code section 12.10 is
34 amended to allow the EDA to retain the fees it collects by
35 adding the EDA to the list of departments exempted from the

1 requirement to deposit all collected fees with the treasurer of
2 state.

3 The division creates two compliance cost fees to be imposed
4 on all persons or entities that enter into an agreement with
5 the EDA under its high quality jobs program or enterprise zone
6 program. First, a one-time compliance cost fee of \$500 due
7 prior to the issuance of a tax incentive certificate or the
8 disbursement of financial assistance. Second, a compliance
9 cost fee equal to 0.5 percent of the value of tax incentives
10 claimed under any agreement that has an aggregate tax incentive
11 value of \$100,000 or greater, which fee is due after a tax
12 incentive is claimed from the department of revenue.

13 The division takes effect upon enactment and applies to
14 agreements entered into on or after the effective date of the
15 division.

16 AGGREGATE TAX CREDIT LIMITATION. Division II increases
17 the aggregate tax credit limit on EDA programs listed in
18 Code section 15.119 from \$120 million per fiscal year to
19 \$185 million per fiscal year. The division allows the EDA
20 to reallocate, authorize, and award for a fiscal year any
21 amount of tax credits that were previously awarded by the EDA,
22 provided the tax credit is irrevocably declined by the awarded
23 business before the close of the fiscal year which follows the
24 fiscal year in which it was awarded. Any amount of tax credits
25 reallocated, authorized, and awarded under this provision shall
26 not be included in the calculation of the aggregate tax credit
27 limit for the fiscal year.

28 The division amends the requirements that \$2 million and \$8
29 million in tax credits be allocated to the qualifying business
30 and community-based seed capital funds investment tax credits
31 and the innovation fund tax credit, respectively, to allow
32 the EDA to allocate a lesser amount if it determines the tax
33 credits awarded for that fiscal year will be lower.

34 The division takes effect upon enactment and applies
35 retroactively to July 1, 2012.

1 ENDOW IOWA TAX CREDIT LIMIT. Under current law, the amount
2 of endow Iowa tax credits that may be authorized in a calendar
3 year cannot exceed a total of \$3.5 million plus a certain
4 percentage of the wagering tax receipts as provided in Code
5 section 99F.11. Division III amends this annual limit to
6 provide that a maximum of \$5 million per calendar year may
7 be authorized and to provide that amounts collected from the
8 wagering tax pursuant to Code section 99F.11 will no longer be
9 used to fund the endow Iowa tax credit.

10 The division takes effect upon enactment and applies
11 retroactively to January 1, 2013, for endow Iowa tax credits
12 authorized on or after that date.

13 WITHHOLDING TAX DIVERSION. Division IV provides for
14 a diversion of withholding tax to the EDA. The division
15 provides that the authority may enter into agreements with
16 recipients of financial assistance under the high quality jobs
17 program and the enterprise zones program that allow for the
18 diversion of withholding tax payments pursuant to Code section
19 422.16 from the department of revenue to the authority. The
20 diversion amount will be 2.5 percent of gross wages paid by
21 eligible businesses to each employee considered to be holding a
22 created or retained job. The division establishes a priority
23 withholding order if the employee's wages are subject to
24 another withholding diversion. The division provides that the
25 withholding diversion takes effect upon enactment and applies
26 retroactively to high quality jobs program agreements and
27 enterprise zone program agreements entered into on or after
28 July 1, 2012, and awards of incentives and assistance made
29 under those programs on or after July 1, 2012.

30 CITY DEVELOPMENT BOARD FEES. Under current law, the EDA
31 is required to provide office space and staff assistance to
32 the city development board created in Code section 368.9,
33 and to budget funds to cover expenses of the board. Also
34 under current law, the city development board is allowed to
35 impose fees upon applications and petitions submitted to the

1 board. Division V appropriates the amounts collected from
2 those fees to the city development board for the purpose of
3 reimbursing the EDA for the budgeted costs of covering the
4 board's expenses. Any fees collected in a fiscal year by the
5 city development board in excess of such budgeted costs shall
6 be deposited in the general fund of the state.

7 HIGH QUALITY JOBS REPLACEMENT TAX REBATE. Division VI
8 provides that a community may rebate all or a portion of the
9 replacement tax imposed on the delivery of natural gas in Code
10 section 437A.5. To qualify for the rebate, the natural gas
11 upon which the replacement tax was paid must be delivered or
12 consumed in completion of a project that is part of a high
13 quality jobs program agreement and must be directly related to
14 new jobs created by the start-up, location, or expansion of an
15 eligible business under the high quality jobs program.

16 The division takes effect upon enactment and applies to high
17 quality jobs program agreements entered into on or after July
18 1, 2012.